

LAWS OF THE GILBERT ISLANDS
REVISED EDITION 1977

CHAPTER 37 FSA

GILBERT ISLANDS PROVIDENT FUND ORDINANCE

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SCHEDULE

An Ordinance to establish a provident fund and for purposes ancillary thereto

17 of 1976
7 of 1977
27 of 1977
2 of 1978

Commencement: 1st July 1977 L.N. 112/77

PART I

PRELIMINARY

1. This Ordinance may be cited as the Gilbert Islands Provident Fund Ordinance and shall come into operation on such day as the Minister may by notice appoint:

Short title,
commence-
ment and
application

Provided that the Minister may appoint different days for the coming into operation of different sections and any such notice may contain such limitations or savings with respect to the operation of the section or sections it brings into operation as appear to the Minister to be appropriate.

2. In this Ordinance unless the context otherwise requires—
“amount of wages for the month” means—

Interpreta-
tion

- (a) in respect of an employee paid monthly or at intervals of longer than a month, the amount of wages due to him in respect of the month;
- (b) in respect of any other employee, the aggregate amount of wages due to him on such pay days as fall within the month:

Provided that in computing the amount of wages any fraction of a dollar payable on each occasion of payment shall be ignored, unless on any such occasion the total amount payable is less than \$1 in which case it shall be deemed to be \$1;

“Board” means the Gilbert Islands Provident Fund Board established under the provisions of section 3 (1);

“contribution” means any sum payable to the Fund under the provisions of section 13 or 16;

“contribution half-year” or “half-year” means the period from the 1st day of January to the 30th day of June or from the 1st day of July to the 31st day of December in any year, as the case may be;

“date of entitlement” means, in respect of any member of the Fund, the day on which it is proved to the Board that such member has satisfied the requirements of section 20;

“date of entry” means, in respect of any member of the Fund, the first day of the month in which the first contribution payable in respect of that member shall have been made to the Fund;

“domestic servant” means any person employed in a private dwellinghouse by the occupant thereof and paid by such occupant to perform only domestic duties in such a dwellinghouse;

“employee” means any person who—

- (a) is employed in the Gilbert Islands under a contract of service or employment or apprenticeship, whether written or oral or whether express or implied; or
- (b) being a person deemed to belong to the Gilbert Islands under the constitution, is employed in the manner specified in the last preceding paragraph outside the Gilbert Islands by the Government or by an employer having a place of business in the Gilbert Islands; or
- (c) being a person deemed to belong to the Gilbert Islands under the constitution is employed under a contract of employment entered into in the Gilbert Islands as a master or member of the crew of any vessel, or as captain or member of the crew of any aircraft, the owners of which have a place of business in the Gilbert Islands or have agreed to make contributions to the Fund; or
- (d) is employed by a co-operative society of which he is a member; or
- (e) is a member of the House of Assembly:

Provided that—

- (i) no person of any of the descriptions specified in the Schedule shall be an employee;
- (ii) no person or class of persons declared exempt by the Minister shall be an employee;

Schedule

“employer” means—

- (a) in respect of any employee as defined in paragraph (a) of the definition of “employee”, the person with whom such employee has entered into the contract of service or employment or apprenticeship; or
- (b) in respect of any employee as defined in paragraph (b) of the definition of “employee”, the Government, or the employer having a place of business in the Gilbert Islands, as the case may be; or
- (c) in respect of any employee as defined in paragraph (c) of

the definition of "employee", the owners of the vessel or aircraft in which the employee as so defined is employed; or

- (d) in respect of any employee as defined in paragraph (d) of the definition of "employee", the co-operative society by which he is employed; or
- (e) in respect of any employee of the Government, the Government; or
- (f) in respect of any employee as defined in paragraph (e) of the definition of "employee", the Government.

"financial year" means the period from the 1st day of January to the 31st day of December in each year;

"Fund" means the Fund established under the provisions of section 7;

"Manager" means the Manager appointed by the Board in accordance with the provisions of section 5 (1);

"maximum sum" means the sum declared by the Board under the provisions of section 9;

"member" means any person to whose credit any amount is standing in the fund;

"nominee" means a person nominated by a member in accordance with the provisions of section 25 to receive the whole or part of such member's credit in the event of the death of such member;

"qualified member" means a member who has not at any time withdrawn the whole or any part of any amount standing to his credit in the Fund;

"supranational institutions" means the Asian Development Bank, the Council of Europe, Eurofina, the European Coal and Steel Community, the European Economic Community, the European Investment Bank, the Inter-American Development Bank, the World Bank and any similar institution approved by the Minister;

"wages" means the basic earnings which would be due in money to an employee under his contract if no deductions were made therefrom excluding all bonuses, allowances, and payments made in respect of overtime and holiday working and the like.

PART II

CONSTITUTION, POWERS AND FUNCTIONS OF THE BOARD

Establishment and constitution of the Board

3. (1) There is hereby established a Board to be called the Gilbert Islands Provident Fund Board consisting of—

- (a) 2 public officers;
- (b) 2 representatives of employers not being public officers; and
- (c) 2 representatives of employees

to be appointed by the Minister who shall appoint 1 of such persons to be Chairman of the Board:

Provided that any person who is a member of the House of Assembly shall be disqualified from being appointed to or remaining a member of the Board.

(2) Every member of the Board and every person appointed by the Board under the provisions of section 5 shall be deemed to be a person employed in the public service within the meaning of and for the purposes of the Penal Code.

(3) A member of the Board shall not communicate or reveal to any person any matter which comes to his knowledge as a member of the Board except as may be required for the due discharge of his duties as such.

(4) Members of the Board shall be paid such remuneration and such travelling and subsistence allowances as may be fixed by the Minister.

(5) The quorum of the Board shall be 4.

(6) The Board shall have power to make rules for the conduct of its proceedings.

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Board to be a body corporate

4. (1) The Board shall be a body corporate and shall, by the name of "The Gilbert Islands Provident Fund Board", have perpetual succession and a common seal which shall be affixed in the presence of 2 members thereof.

(2) The Board may sue and be sued in its corporate name and may enter into contracts and may acquire, purchase, take, hold and enjoy property of every description and may convey, assign, surrender, yield up, charge, mortgage, lease, demise, re-assign, transfer or otherwise dispose of or deal with any property or any interest therein vested in the Board upon such terms as to the Board seems fit.

(3) Services of any document on the Manager shall be deemed to be service on the Board.

5. (1) The Board shall have power to engage and appoint a staff consisting of a Manager and such other officers and servants as are in the opinion of the Board necessary for the purpose of carrying out the provisions of this Ordinance.

Powers and
duties of the
Board

(2) Notwithstanding any of the provisions of this Ordinance, the Board may make loans or advances to its officers and servants as part of their conditions of employment or make grants, payments, loans or advances for purposes relating to such conditions, upon such terms as the Board may decide.

(3) The Board shall have power to appoint agents to carry out such functions as may be necessary for the purpose of this Ordinance and may by its officers direct such agents as to the extent and manner in which their functions shall be carried out.

(4) The Board shall have power to appoint, as inspectors having the powers set out in section 42, any of the persons appointed under the provisions of subsection (1) and, with the consent of the Minister, any persons or classes of persons appointed under the provisions of subsection (3).

(5) The Board shall have such powers and shall perform such duties, including the duty of enforcement, as are given or imposed by this Ordinance and may by instrument in writing under its common seal delegate to any person all or any of such powers and duties:

Provided that if the Board shall delegate any such power or duty to any of its officers or servants such delegation shall be by a resolution made and recorded at a properly constituted meeting of the Board.

6. (1) The Board may print, sell, issue and utter adhesive or impressed stamps for the purpose of payment of contributions.

Power to
issue stamps

(2) The design of such stamps and the circumstances and manner in which they may be used shall be such as the Manager shall determine.

PART III

FINANCIAL PROVISIONS

7. (1) For the purposes of this Ordinance, there shall be a fund to be called the Gilbert Islands Provident Fund into which shall be paid all contributions required to be made under the provisions of this Ordinance and out of which shall be met all payments

Establish-
ment of
Provident
Fund

required to be made by the Fund under the provisions of this Ordinance.

(2) The Board shall be the trustee of the Fund, and the moneys belonging to the Fund shall, subject to any general direction of the Minister—

- (a) be deposited in any manner in any bank or savings bank;
- (b) be invested—

- (i) in Parliamentary stocks, public funds or government securities in the following currencies; Sterling, Australian dollars, United States dollars, West German deutschemarks, Japanese yen, Canadian dollars and New Zealand dollars;
- (ii) in bonds issued or guaranteed by provincial governments, local authorities and supranational institutions in the currencies referred to in paragraph (i);
- (iii) in the purchase of or charge on, any interest in immovable property;
- (iv) on any other security or in any other loan specifically approved as an investment for the purposes of this Ordinance by the Minister or guaranteed by the Government.

Rate of
interest

8. At or before the end of each financial year, the Board shall, having considered the recommendation of the Manager, declare a rate of interest for the purpose of section 17 (2) in respect of that financial year, being not less than 4 per cent per annum:

Provided that—

- (i) no rate of interest exceeding 4 per cent per annum shall be so declared unless in the opinion of the Board the ability of the Fund to meet all payments required to be paid under this Ordinance is not endangered by the declaration of such rate; and
- (ii) no rate of interest exceeding 4 per cent per annum shall be so declared if any sums advanced by the Government under the provisions of section 10 have not been repaid.

Special death
benefit

9. As soon as possible after the end of each financial year the Board shall, having considered the recommendation of the Manager, declare the maximum sum to be added to a qualified member's credit on his death for the purposes of section 27 provided that the maximum sum so declared shall be not less than 200 times the amount of the deduction made under section 17 (4).

10. If the Fund is at any time unable to pay any sum which is required to be paid under the provisions of this Ordinance, the sum required shall be advanced to the Fund by the Government and charged upon the Consolidated Fund and the Board shall as soon as practicable repay to the Government the sum so advanced on such terms as the Government shall determine at the time of the making of the advance.

Advances by
Government

11. All expenses incurred in carrying this Ordinance into effect and in connection with the administration of the Fund shall be paid out of the moneys of the Fund.

Expenses

12. (1) The Board shall keep or cause to be kept accounts of the Fund and such accounts shall be audited annually by the Director of Audit.

Accounts and
audit

(2) As soon as practicable after the end of each financial year, an account of the income and expenditure of the Fund, of contributions received and of withdrawals made and of interest credited to members of the Fund during the preceding financial year, together with a statement of the assets and liabilities of the Fund and the report of the Director of Audit thereon, and also a report by the Chairman of the Board on the activities of the Board during such financial year, shall be laid before the House of Assembly.

PART IV

CONTRIBUTIONS TO THE FUND

13. (1) Every employer shall pay to the Fund, in respect of each of his employees in every month (other than the month in which employment commences) during which such employee is employed by him and in the month following the termination of such employment unless the employment terminates in the month in which it began, a contribution calculated upon the amount of wages payable to such employee by such employer for the preceding month at the rate of 10 cents in respect of each complete dollar in the amount of those wages:

Payment of
contributions

Provided that in respect of any employee engaged in any prescribed employment, the Board may direct that payment of contributions in respect of that employer shall be made at intervals other than a month and, notwithstanding any other provisions of this Ordinance, may direct the manner in which such contributions shall be calculated and paid, and the Board may further direct that payment shall be made by some other person on behalf of and to

the exclusion of the employer, whereupon such other person shall be deemed to be the employer for the purposes of subsection (2).

(2) Notwithstanding any law or any contract to the contrary, an employer who pays a contribution in respect of any employee in accordance with the provisions of subsection (1) shall be entitled to recover from the wages of such employee, by way of deduction therefrom, one-half of such contribution.

(3) Notwithstanding any contract to the contrary, an employer shall not be entitled to recover in any way from an employee, in respect of contributions payable under this Ordinance, any sum in excess of that permitted to be recovered under the provisions of subsection (2).

(4) Any employer may, in any month, pay to the Fund contributions in respect of any of his employees at a rate in excess of the rate set out in subsection (1):

Provided that notice of the payment of such additional contributions shall be given to the Board in the prescribed form.

(5) For the avoidance of doubt, it is hereby declared that when any employee attains or has attained the age of 50 years contributions shall, subject to the provisions of this Ordinance, continue to be payable to the Fund in respect of him at any time during which he remains an employee:

Provided that if a member has withdrawn the whole or any part of any amount standing to his credit in the Fund on the ground he has attained the age of 50 years no further amount shall become payable until the member retires.

Penalty for
late payment

14. If any contribution for which an employer is liable under section 13 is not paid by the end of the month in which it is due to be paid, a sum equal to 5 per cent of the amount due to be paid shall be added to the contribution for each month or part of the month during which the contribution remains unpaid after the date by which payment was due unless the Board is satisfied that the employer has not omitted to take all reasonable action to ensure payment by the end of the month in which the contribution is due to be paid:

Provided that the Board may, if it thinks fit, remit in whole or in part any penalty imposed by this section.

Unpaid
contributions
deemed to be
paid in
certain
circumstances

15. If any employer fails to pay any contribution which he is required to pay under the provisions of section 13 (1) by the end of the month in which the contribution is due to be paid, the Board may, if it is satisfied—

- (a) that such failure was not due to the consent or connivance of the employee concerned; and
- (b) that there is no prospect of recovering the amount unpaid within a reasonable time,

credit to the employee the amount of the contributions which should have been paid in respect of him and shall charge the amount so credited to the general revenues of the Fund:

Provided that nothing in this section shall prejudice the right of the Board to recover the amount of such contributions together with any penalty due under the provisions of section 14 from the employer, and any amount so recovered shall be credited to the Fund.

16. (1) Any member who, having been an employee in respect of whom contributions were payable under the provisions of section 13 (1) in 4 successive contribution half-years, ceases to be an employee may, provided he gives notice to the Board in the prescribed form not more than 6 months after ceasing to be an employee, become a voluntary contributor and pay contributions on his own behalf into the Fund:

Voluntary
contributions

Provided that no member who has withdrawn the whole or any part of any amount standing to his credit in the Fund may become such a voluntary contributor.

(2) Voluntary contributions made under the provisions of subsection (1) shall not exceed an aggregate of \$300 in any contribution half-year.

PART V

ALLOCATION OF PAYMENTS INTO THE FUND

17. (1) All sums recovered or collected on account of contributions to the Fund under the provisions of this Ordinance shall be paid into or credited to the Fund in such manner as the Board may direct.

Contributions
to be paid
into the Fund
and credited
to members
and
deductions
from
qualified
members

(2) The Board shall cause to be credited to the account of each member the amount of the contributions paid during such financial year in respect of that member and, upon the declaration by the Board under the provisions of section 8 of a rate of interest for the financial year, interest at that rate on the amount standing to his credit in the Fund at the commencement of such financial year in such manner as the Board may direct:

Provided that, where the Board gives authority under any of the provisions of this Ordinance for the withdrawal from the Fund of

any amount standing to the credit of a member, the amount of interest due from the first day of the financial year in which such authority is given to the last day of the month preceding that in which such authority is given shall be calculated at the rate of interest declared by the Board for the previous financial year and credited to such member before such withdrawal notwithstanding that the rate of interest subsequently declared by the Board in respect of that financial year may be greater or less than the amount so calculated.

(3) For the purpose of calculating any interest due under the last preceding subsection any fraction of a dollar in the amount standing to the credit of a member shall be disregarded.

(4) For the purpose of providing for the payment of special death benefit under the provisions of section 27, the Board shall cause to be deducted at the commencement of each financial year from the account of each qualified member the sum of \$5 or, if the amount standing to the credit of a qualified member's account at the date of such deduction is less than \$5, the whole of the amount so standing, and such deducted sums shall be paid into the Fund:

Provided that the amount of the sum to be deducted under the provisions of this subsection may be varied from time to time by resolution of the House of Assembly.

Revenue other than contributions

18. All penalties collected under the provisions of section 14, together with any other sums which shall from time to time be received or collected by the Board otherwise than on account of contributions, shall be paid into the Fund.

PART VI

BENEFITS

Account standing to the credit of a member

19. The amount standing to the credit of a member shall for the purposes of this Part be a sum equal to the aggregate of all contributions made in respect of that member together with such interest as has been or is to be credited to that member under the provisions of section 17 (2), less a sum equal to the aggregate of all deductions made or to be made in respect of that member, if he is a qualified member, under the provisions of section 17 (4).

Circumstances in which benefit payable

20. The amount standing to the credit of a member in the Fund shall become payable if it is proved to the satisfaction of the Board that such member—

(a) subject to the proviso contained in section 13 (5) has attained the age of 50 years; or

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(aa) has attained the age of 45 years and has retired from employment permanently, or

- (b) has died; or
 - (c) is physically or mentally incapacitated from engaging in any further employment; or
 - (d) is about to leave or has left ^{Kiribati} ~~the Gilbert Islands~~ with no intention of returning thereto; or
 - (~~e~~) being a woman has married after the commencement of this Ordinance and has not previously withdrawn the whole or any part of any amount standing to her credit in the Fund on that ground.
- (2)

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21. No amount standing to the credit of a member may be withdrawn from the Fund except with the authority of the Board and such authority shall not be given before the date of entitlement of the member. ^{Withdrawal to be approved by Board}

22. The Board shall after the date of entitlement of any member otherwise than upon his death, and upon his application or, in any case in which another person has been by law appointed to act for a member on the ground of that member's mental incapacity, upon the application of that other person, pay to the applicant the amount standing to the credit of such member in the Fund. ^{Withdrawal otherwise than upon death}

23. The Board shall after the death of any member and upon the application of a person nominated under the provisions of section 25 pay to such nominated person such part of the amount standing to the credit of such member as shall have been set out in the memorandum executed in accordance with that section. ^{Withdrawal by nominees}

24. All applications for withdrawal shall be supported by such evidence as may be prescribed and by such further evidence as the Board in its discretion may in any particular case require. ^{Evidence}

25. Any employee or member may by a memorandum executed in the prescribed form nominate a person or persons to receive in his or their own right such portion or portions of the amount payable out of the Fund under the provisions of section 23 on his death as such memorandum shall indicate, and any employee or member who does not nominate such a person or persons may be required by the Board to declare in writing that he does not desire so to do. ^{Nomination}

Provided that the subsequent marriage of a nominator shall render any nomination made by him null and void.

Procedure where there is no nominee or a minor nominee

26. (1) If, at the time of the death of any member of the Fund, there is no person nominated under the provisions of section 25, and the member has made no testamentary provision regarding the same, the amount standing to the member's credit in the Fund shall be paid into the Lands Court for disposal in accordance with the law for the time being in force.

(2) If any person nominated, other than a widow, shall be under the age of 18 years at the time of payment of the amount payable out of the Fund, his portion of the amount payable shall be paid to the Chief Lands Officer to be administered for the benefit of such nominated person until he reaches the age of 18 years.

Payment of special death benefit

27. (1) On the death of a qualified member, the amount standing to his credit in the Fund shall be increased by such proportion of the maximum sum declared under the provisions of section 9 as may be prescribed in accordance with subsection (2) and the amount of such increase shall be paid from the Fund.

(2) The amount to be added to the deceased member's credit for the purpose of subsection (1) shall be related to the member's period of membership of the Fund and to the number and amount of contributions paid on his behalf and standing to his credit in such manner as may be prescribed.

PART VII

PROTECTION OF SUMS CONTRIBUTED AND WITHDRAWN

Member's credit not subject to sequestration, etc.

28. (1) Notwithstanding the provisions of any law to the contrary but subject to the provisions of subsection (2), no contribution to the Fund, nor any amount standing to the credit of a member in the Fund nor interest on any such contribution or amount, nor withdrawals made by the authority of the Board from the Fund under any of the provisions of this Ordinance, nor the rights of any member acquired under this Ordinance, nor the right to receive any annuity under any order made under the provisions of section 45, shall be assignable or transferable or attached, sequestrated or levied upon for or in respect of any debt or claim whatsoever.

(2) Notwithstanding the provisions of any law to the contrary, all moneys paid out of the Fund on the death of any member shall be deemed to be impressed with a trust in favour of the person nominated under the provisions of section 25 by the deceased member or by his will or if no such person has been nominated the

person or persons determined by the court in accordance with the provisions of section 26 (1) to be entitled thereto and shall be deemed not to form part of the deceased member's estate nor to be subject to his debts.

29. All the income of the Fund, and all interest paid or credited in respect of members under any of the provisions of this Ordinance and all sums (including annuities) withdrawn from or paid out of the Fund under any of the provisions of Part VI shall be exempted from all taxes, levies or charges imposed by law.

Exemption from taxation, etc.

30. Notwithstanding the provisions of any law, it shall be lawful for the Board to make payment of any sum due as a benefit or the payment of any annuity payable under this Ordinance to a member or nominee in any country in which that member or nominee is resident at the time when such payment becomes due or is paid.

Authority of Board to make payment abroad

31. The bankruptcy of an employee shall not affect the payment of contributions in respect of that employee in accordance with the provisions of this Ordinance, but such payments shall continue to be made notwithstanding the provisions of any law and shall be deemed not to form part of his after acquired property.

Bankruptcy of an employee

32. (1) Where any trustee in bankruptcy, assignee, liquidator, receiver, personal representative or other such person is dealing with the property, business, estate or interest of any employer who has failed or fails to pay any contributions payable under any of the provisions of this Ordinance, every such person shall pay such contributions in a manner to be determined by the Board before he distributes any such property, business, estate or interest.

Bankruptcy, liquidation, etc. of employer

(2) Any trustee in bankruptcy, assignee, personal representative or other such person shall before distributing any assets under his control, obtain from the Manager a certificate to the effect that all contributions payable under the provisions of this Ordinance by any employer, who owns or owned such assets, have been paid.

(3) If any distribution is made by any trustee in bankruptcy, assignee, personal representative or other such person without first obtaining a certificate under the provisions of subsection (2) then such person shall be personally liable for any unpaid contributions together with any penalty payable under the provisions of section 14.

Secrecy

33. Notwithstanding the provisions of any law to the contrary, the Board shall not be required to divulge, save to the member or if the member is dead, to his nominee, any matter relating to the amount standing to the credit of a member, nor any particulars of such member or of any employer unless the consent in writing of such member or employer is given to the Board:

Provided that nothing in this section shall prevent the Board or its officers from giving evidence relating to any such matter in any criminal proceedings.

PART VIII

OFFENCES, PENALTIES AND PROCEEDINGS

Offences

34. (1) If any person—
- (a) for any purpose connected with this Ordinance—
 - (i) knowingly makes any false statement;
 - (ii) produces or furnishes or causes or knowingly allows to be produced or furnished any document which he knows to be false in a material particular;
 - (b) fails to pay to the Fund in any month any amount which, under the provisions of section 13 (1), he is liable to pay in that month in respect of any employee;
 - (c) obstructs any officer or servant of the Board in the discharge of his functions as such;
 - (d) fails to pay to the Board within such period as may be prescribed any penalty which he is liable to pay under the provisions of section 14;
 - (e) being or ever having been a member, officer, servant or agent of the Board directly or indirectly communicates or reveals to any person any matter relating to the business of the Board which shall have become known to him in his capacity as member, officer, servant or agent, except as may be required for the due discharge of his duties as such member, officer, servant or agent or as may be permitted by the Board or in any criminal proceedings;
 - (f) procures any member, officer, servant or agent of the Board or any person who has ever been such member, officer, servant or agent to communicate or reveal any such matter as is set out in the last preceding paragraph;
 - (g) fails to pay within such period or in such manner as the Board has determined any contribution or penalty which he is required to pay under the provisions of section 32; or

- (h) fails to produce at the time specified, any document required to be produced by notice in writing under the provisions of paragraph (c) of section 42, or fails to answer any summons served under the provisions of paragraph (d) thereof or under the provisions of section 43,

he shall be liable to a fine of \$500 and to imprisonment for 1 year.

- (2) If any person—

- (a) makes in respect of any contributions any deductions from any wages other than from wages in respect of which such contributions are calculated or at a time other than the time at which such wages are payable;
- (b) deducts from the wages of any employees any sums greater than those permitted to be recovered under the provisions of this Ordinance; or
- (c) having made any deductions fails to pay to the Fund in the months in which they are due the contributions in respect of which such deductions have been made,

he shall be liable to a fine of \$1000 and to imprisonment for 2 years.

35. If notice of intention so to do is served by the prosecuting officer upon the defendant, evidence may be given, at any trial for an offence under the provisions of paragraph (b) of section 34 (1), or the provisions of section 34 (2), of contributions unpaid at the date of the service of the summons upon the defendant other than those referred to in the summons, in the form of a certificate under the hand of the Manager and, if the defendant is convicted of such offence, the court by which he is so convicted may, without prejudice to any right under the provisions of section 40, also order the defendant to pay to the Fund the aggregate of the amount of all the unpaid contributions referred to both in the summons and in the said certificate and the provisions of the Penal Code relating to imprisonment in default of payment of fines shall apply to any such unpaid contributions or any portion thereof so ordered to be paid as if they were fines imposed by law.

Certificate of
additional
unpaid
contributions

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36. Where any person is convicted under any of the provisions of this Ordinance of failure to pay any penalty the court by which he is so convicted may, without prejudice to the provisions of section 40, also order the defendant to pay to the Fund any amount required to be paid as a penalty in the same manner as is provided in relation to the payment of contributions under the provisions of section 35.

Further
powers of
courts

Liability of
officers of
corporations

37. Where an offence under this Ordinance has been committed by a body corporate, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the body corporate, firm, society or other body of persons or was purporting to act in such capacity shall, as well as such body corporate, firm, society or other body of persons, be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or knowledge and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

Prosecutions

38. Prosecutions in respect of any offences under this Ordinance may be instituted by the Manager, or by any officer, servant or agent of the Board authorised in writing in that behalf by the Manager, and the Manager or any such authorised officer, servant or agent may conduct any such prosecutions whether or not he was the person who made the complaint to institute or otherwise instituted the proceedings.

Order for
repayment of
illegal
deductions
etc.

39. Where it is shown to the satisfaction of any court, whether on conviction for any offence under this Ordinance or, in the case of Government on an application, that any employer, including any Government department, has made any deductions or recovered any money from any employee in respect of any contributions otherwise than in accordance with the provisions of this Ordinance, the court may order such employer, including any Government department, to repay to any employees in respect of whom such illegal deductions or recoveries have been made the amount of such illegal deductions or recoveries.

Civil
proceedings

40. (1) All contributions payable under the provisions of this Ordinance may, without prejudice to any other remedy, be recoverable by the Board as a civil debt.

(2) Proceedings for the recovery as civil debts of any contributions may, notwithstanding anything in any law to the contrary, be brought at any time within 6 years from the date the contributions became due.

(3) Proceedings for the recovery as civil debts of contributions, and applications under section 39, may be instituted by the Manager, or by any officer, servant or agent of the Board authorised in writing in that behalf by the Manager, and the Manager or any such authorised officer, servant or agent may conduct any such proceedings for recovery, or proceedings arising

out of any such applications, whether or not he was the person who instituted the proceedings or applications.

(4) In this section the word "contribution" shall be deemed to include any penalty under the provisions of section 14.

41. Where under any of the provisions of this Ordinance any document, proceedings or thing is required to be served or given, any such document, proceedings or thing may be served either—

Service of documents

- (a) by post in accordance with the provisions of section 6 of the Interpretation and General Clauses Ordinance; or
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given; or
- (c) in the case of any public or corporate body, by delivering it to any officer of such public or corporate body; or
- (d) in the case of a Government department, by delivering it or posting it in accordance with paragraph (a) to the Attorney-General.

Cap. 46

PART IX

POWERS OF INSPECTORS AND OFFICERS OF THE FUND

42. An inspector appointed under the provisions of section 5 (4) may at any reasonable time—

Powers of inspectors

- (a) enter any premises or place where persons are believed to be engaged as employees;
- (b) make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Ordinance are being or have been complied with in any such premises or place;
- (c) require the production of any document which an employer is required to keep under the provisions of this Ordinance or of any law relating to employment or any document relating to a contract or the conditions of service existing between an employer and his employee or employees and, for this purpose, may by notice in writing served on an employer require such production at any place reasonably accessible to such employer on a date and at a time specified in such notice provided that the date so specified shall not be less than 21 days from the date of service of such notice;
- (d) examine, either alone or in the presence of any other person, with respect to any matters under this Ordinance

on which he may reasonably require information, every person whom he has reason to believe can give information respecting the subject matter of the examination and require such person to be examined, and for the purposes of such examination may summon any such person to attend at the time and place specified in such summons.

Inquiries to
establish date
of
entitlement

43. An inspector, or any person appointed under the provisions of section 5 and so authorised in writing by the Manager, may make such examination and inquiry as may be necessary for ascertaining the truth of any statement made for the purpose of establishing the date of entitlement of any member and may, for that purpose—

- (a) examine, either alone or in the presence of any other person, with respect to any matters under this Ordinance on which he may reasonably require information, every person whom he has reason to believe can give information respecting the subject matter of the inquiry, and require every such person to be examined, and for the purposes of such examination may summon any such person to attend at the time and place specified in such summons;
- (b) require a person who makes any statement to sign a declaration as evidence of its truth.

PART X

MISCELLANEOUS

Regulations

44. The Minister may make regulations generally for the purpose of carrying this Ordinance into effect, and, in particular, but without prejudice to the generality of the foregoing, may make regulations with respect to any of the following matters —

- (a) to provide for the registration of employers and employees in anticipation of the coming into force of any of the provisions of this Ordinance;
- (b) to provide for the manner of payment and collection of contributions and any matters incidental thereto;
- (c) to provide for the disposal of amounts which are unclaimed, unpaid or otherwise remain in the Fund;
- (d) to provide for—
 - (i) the return of contributions under the provisions of this Ordinance, or any part of such contributions, paid in error;

(e)

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- (ii) the payment of contributions under the provisions of this Ordinance, or of any part of such contributions, omitted to be paid;
- (e) to provide for the keeping of books, accounts or records by employers;
 - (f) to prescribe, for the purposes of the proviso to section 13 (1), employments in respect of which contributions may be paid other than monthly;
 - (g) to provide for the appointment of medical boards for the purposes of paragraph (c) of section 20 and for such other purposes as may be prescribed;
 - (h) to prescribe the procedure for the withdrawal of accounts from the Fund;
 - (i) to prescribe the evidence to be produced and the person, officer or authority to whom such evidence is to be produced for the purposes of section 24;
 - (j) to prescribe nomination forms for the purposes of section 25;
 - (k) to prescribe the procedure to be followed when any voluntary contribution is paid to the Fund;
 - (l) to prescribe the returns to be made by employers, and the forms and registers to be used, in carrying out the provisions of this Ordinance;
 - (m) to prescribe the amount, frequency of payment and duration of any annuity payable under the provisions of section 45;
 - (n) to prescribe the proportion of the maximum sum which may be added on a qualified member's death to the amount standing to his credit in the Fund.

45. The Minister may, in addition to any other powers conferred by the provisions of this Ordinance, after consulting the Board, provide by Order that, notwithstanding the provisions of sections 22, 23, 26 and 27 of this Ordinance, any person or class of persons, entitled under the provisions of those sections to receive the whole or part of the amount standing to the credit of a member in the Fund, may receive, in place of all or part of any sum due to them, an annuity based upon that sum or part thereof.

Annuities

46. (1) The Minister, after consulting the Board, may enter into a reciprocal agreement with the government of any other country or territory in which a fund similar to the Fund has been established and such agreement may provide, amongst other matters, that—

Reciprocal agreements

- (a) any period of work for an employer in that country or

territory shall be treated as a period of work in the Gilbert Islands for that employer for the purpose of the definition of "employee" contained in section 2; and

- (b) subject to such conditions as may be laid down in such agreement, any amount standing to the credit of any member of the Fund who works for any employer in that country or territory may be transferred to such member's credit in such fund, and any amount standing to the credit in such fund of any person who becomes a member of the Fund may be transferred to his credit in the Fund.

(2) Any reciprocal agreement made under the provisions of subsection (1) shall be published and shall come into force on the date of such publication or on such later date as may be provided in the agreement.

Amendment
of Schedule

47. The Minister shall have power by order to amend the descriptions specified in the Schedule.

SCHEDULE

(Sections 2 and 47)

EXEMPTIONS

1. Any domestic servant
2. Any person under the age of 14 years
3. Any person detained in any mental hospital or in any prison for any term of imprisonment

[Subsidiary]

SUBSIDIARY LEGISLATION

Commencement and application of the Ordinance by notice under section 1

L.N. 112/77

With effect from 1st July 1977 the Ordinance was brought into operation in respect of the following classes of employees (not being classes of employees specified as exempt by declaration under section 2)—

- (i) persons employed by the Government;
- (ii) persons employed in the Gilbert Islands by the Bank of New South Wales;
- (iii) persons employed by either Te Inainano Urban Council or the Betio Town Council;
- (iv) persons employed by the Gilbert Islands Co-operative Federation Limited and the Tarawa Biscuit Company Limited;

[Subsidiary]

- (v) persons employed by the Public Utilities Board;
- (vi) persons employed by the Gilbert Islands Provident Fund Board; and
- (vii) persons employed by the National Loans Board Small Business and Housing Division.

With effect from 1st January 1978 the operation of the Ordinance was extended to all classes of employees other than those exempted by declaration under section 2 and power was given to make regulations with respect to the registration of all classes of employees (other than those exempted) and their employers before 1st January 1978. L.N. 141/77

Persons declared not to be employees for the purpose of the Ordinance by declaration under section 2

1. Persons employed by the Government and who are either—
 - (a) employed in a pensionable office within the meaning of section 2 of the Pensions Ordinance and do not opt to retire in order to convert their service to non-pensionable employment and became employees for the purposes of the Ordinance, or L.N. 113/77
L.N. 142/77
 - (b) recruited from any overseas territory under any scheme of agreement whereby the whole or any part of such persons' total emoluments in respect of employment by the Gilbert Islands Government is paid by or on behalf of the government of such territory. Cap. 68

2. Persons employed in the Gilbert Islands by any other employer to whom the operation of the Ordinance extends but recruited from outside the Gilbert Islands.

3. Persons employed on Ocean Island by the British Phosphate Commissioners.

4. Employees whose normal monthly earnings amount to less than \$10.

Regulations under section 44

GILBERT ISLANDS PROVIDENT FUND REGULATIONS

L.N. 123/77

Commencement: 1st November 1977

**PART I
PRELIMINARY**

1. These Regulations may be cited as the Gilbert Islands Provident Fund Regulations and shall come into operation on 1st November 1977: Citation and commencement

Provided that until 1st January 1978 Parts III to X shall be limited to those classes of employees specified in Legal Notice 112/77.

2. In these Regulations, unless the context otherwise requires — Interpretation

“appropriate form” means a form approved by the Manager for use in any case pursuant to these Regulations;

“the Manager” means the Manager or, with respect to any matter, any officer appointed under section 5 (1) and authorised by the Manager to act on his behalf in such matter;

[Subsidiary]

"test period" means in respect of a deceased member, the period of 5 years preceding the contribution half in which he died or, if he shall have been a member for less than 5 years, the period of such membership preceding the contribution half year in which he died;

"voluntary member" means a voluntary contributor who is a member of the Fund.

PART II

REGISTRATION OF EMPLOYERS AND EMPLOYEES

Employers required to register

3. (1) Every person being an employer at the commencement of these Regulations shall within 30 days of the date on which these Regulations come into operation register himself as an employer by obtaining, completing and forwarding the appropriate form to the Manager, at the Office of the Fund.

(2) Every person who is so registered and who subsequently ceases to be an employer shall inform the Manager accordingly within 1 month of ceasing to be an employer.

(3) Every person becoming or again becoming an employer after the commencement of these Regulations, shall within 14 days of the date when he becomes such an employer register in the manner aforesaid.

Changes of employer's address

4. Every employer who has registered shall inform the Manager forthwith in writing of any change in his address.

Employer's reference number

5. The Manager shall register and allot an employer's reference number to every registered employer.

Manager to supply registration forms for employees

6. As soon as possible after an employer is registered the Manager shall forward to him in respect of each of his employees the appropriate form for registration of an employee, and every employer receiving such forms shall within 14 days of receiving them complete them in respect of such employees and return the forms to the Manager.

Employer to register employees

7. Every employer shall, as soon as any person not already a member of the Fund becomes his employee, register him on the appropriate form and forward such form to the Manager within 14 days of the date of commencement of the employment in question.

Employee to sign form

8. Every employee in respect of whom a registration form is to be completed under the provisions of Regulation 7 shall sign in the space provided for such purpose that form and each such form shall be countersigned by the employer or by a representative of the employer.

Employee to furnish information

9. Every employee shall furnish to his employer all such details as may be necessary for the completion of such returns as are required to be made by his employer under the provisions of these Regulations.

Certificate of membership

10. (1) On the first occasion when an employee is registered by his employer, the Manager shall allot a membership number to the employee and shall forward to the employer a certificate of membership of the Fund in the appropriate form together with a notice of nomination in the appropriate form and every employer to whom such forms are sent shall as soon as reasonably possible hand them over to the employee concerned or, if that employee is no longer in his employment, return them to the Manager.

[Subsidiary]

(2) Each member of the Fund shall immediately on commencing work for an employer produce his membership certificate to that employer for inspection.

(3) Each member of the Fund who changes his name, whether on marriage or otherwise, shall return his membership certificate to the Manager for amendment and shall furnish such information as the Manager may require.

11. Every employee receiving a notice of nomination shall within 1 month of its receipt by him complete and forward it to the Manager. Notices of nomination

12. If, in the opinion of the Manager, any document required to be completed by an employer under these Regulations is incomplete or inaccurate or insufficiently legible, the Manager may return the document to the employer who shall, as the Manager may require, either forthwith obtain, complete and forward to the Manager within 7 days of the date of return to the employer of the said document a fresh document in place thereof or correct and return the original document within 7 days. Incomplete documents

13. Any member desiring to become a voluntary contributor to the Fund under the provisions of section 16 of the Ordinance shall give notice to the Board of his intention by completion of the appropriate form and submission of the completed form to the Manager and such notice shall be deemed to have been given on the date when such form is received in the Board's office. Voluntary membership

PART III

PAYMENT OF CONTRIBUTIONS INTO THE FUND

14. (1) All contributions to the Fund shall be paid to the Fund either — Manner of payment of contributions

(a) in cash at the office of the Fund to an officer of the Fund authorised by the Manager in that behalf; or

(b) by telegraphic money order, or money order or cheque, drawn on any bank in the Gilbert Islands, delivered or sent by post to the office of the Fund; or

(c) in such other manner as the Manager from time to time authorise in any particular case or class of cases.

(2) Where payment is made by post, the date of payment for the purposes of the Ordinance shall be the date of the receipt of the payment by the Fund at its office.

15. All payments of contributions to the Fund shall be accompanied by the appropriate forms duly completed, or by such other forms as the Manager may in any particular case or class of cases permit. Documents to accompany payment

16. A receipt on the appropriate form for each sum paid to the Fund on account of contributions to the Fund shall be issued by the Manager. Receipts

17. During and in respect of each half year, every employer registered under regulation 5 shall maintain a half yearly schedule of contributions in the appropriate form (hereinafter referred to as a "schedule") and shall complete the same by duly entering in the spaces provided therefor on such schedule the name and membership number of every employee employed by him and particulars of the amount payable to the Fund in respect of each employee under section 13. Half yearly schedules of contributions

[Subsidiary]

Monthly contribution remittance forms

18. In every month every employer shall complete a monthly contribution remittance form in the appropriate form for the recording and payment of contributions under section 13 (hereinafter referred to as a "remittance form") in respect of that month by entering upon such remittance form the total of the amounts payable in respect of all his employees for that month and shall forward the remittance form together with a remittance for such total amount so as to reach the Manager during the month in which the payment of such amount is due.

Duplicates to be kept

19. Every employer shall keep duplicate copies of schedules and remittance forms on the copy sheets provided with each such schedule and form.

Receipts to be kept

20. The Manager shall cause a receipt for each amount remitted under regulation 18 to be sent to the employer concerned who shall affix the receipt in the appropriate place upon his duplicate copy of the remittance form.

New employees

21. If, during the currency of any schedule, any employee shall enter the service of any employer, the employer shall forthwith enter the employee's name in the appropriate column of the schedule together with the employee's membership number if he is a member of the Fund. If the employee is not a member of the Fund, the employer shall enter in the schedule the name of the employee only and enter the membership number when notified by the Manager by the issue of a membership certificate.

Employee leaving service of employer or dying

22. If during the currency of any schedule any employee referred to thereon shall leave the service of the employer or die the employer shall strike through the spaces in such schedule against that employee's name for the remaining months in the half year for which no contribution is due and enter the total of contributions in respect of that employee in the final column of the schedule with, in the case of an employee who has died, an indication of the death.

Schedule to be sent to Manager half yearly

23. In the months of June or December, as the case may be, every employer shall complete the schedule for the half year in which such month falls by adding together the amounts payable in respect of each employee during the half year to which the schedule refers and shall enter such total in the final column of the form. He shall then add such totals and enter the grand total in the space provided upon the form for so doing.

Forwarding of schedule

24. After compliance with regulation 23, the employer shall then forward the schedule (retaining the duplicate copy thereof), together with the remittance form for the month of June or December, as the case may be, and the appropriate remittance, to the Manager so as to be received by the Manager during the months of June or December as the case may be.

Where employer ceases to be liable to pay contributions

25. If during any half year an employer shall cease to be liable to pay contributions under section 13, he shall forthwith despatch to the Manager completed schedules and remittance forms together with all remittances due to the Fund.

Interim statements

26. If during any half year an employee has become entitled and applied to the Board to withdraw the amount standing to his credit in the Fund or on his death any person has become so entitled, the Manager may by issue to that employee's employer of the appropriate form, require that employer to complete an interim statement of contributions setting out the amount of contributions due to that employee up to such date as may be determined and such employer shall complete and return such interim statement within 14 days of the date of its receipt by him.

[Subsidiary]

27. If any employer shall for any reason require to pay arrears in respect of any employee, he shall so inform the Manager who shall issue to him appropriate forms to accompany such payment of arrears.

Arrears

28. No amendment shall be made by an employer to any entry on a schedule after the date of payment of the contribution in respect of which the entry was made, but if, after payment of any contribution for any month, the employer discovers that an error has been made he shall inform the Manager in writing as soon as the error comes to his notice of the amount and nature of the error and the Manager shall direct how it shall be adjusted.

No alterations to be made to schedules

29. Every employer shall retain the duplicate copies of schedules and remittance forms together with the relevant receipts for a period of 2 years following their date of issue and shall during such period make such forms available on request for inspection by any inspector appointed under section 5 (4) of the Ordinance.

Documents to be available for inspection

30. Any sum due to the Fund by way of penalty for late payment under section 14 of the Ordinance shall be paid to the Fund within 14 days of a demand for such payment signed by the Manager or other authorised officer of the Fund.

Date for payment of surcharge

31. When any voluntary excess contribution is paid to the Fund by an employer under section 13 (4) of the Ordinance, he shall write the letters "VE" on the right hand side of the final column of the relevant schedule against the entry for the employee in respect of whom the voluntary excess contribution is paid.

Voluntary excess contributions

32. (1) Every employer shall keep a written record of—

- (a) the name of each of his employees,
- (b) the membership number of each of his employees,
- (c) the dates on which the employment commences and terminates,
- (d) the date and amount of each payment of wages to the employee,
- (e) the deduction made from such wages by way of the employee's share of any contributions under the Ordinance, and
- (f) the contribution paid in respect of each of his employees, and such record shall be retained for a period of 2 years after the date of the last entry in the record.

Records to be kept by employers

(2) Any employer who fails to comply with paragraph (1) shall be liable on conviction to a fine of \$100 and to imprisonment for 3 months.

33. Where an employee is employed by 2 or more employers during the same contribution half year each of such employers during the same contribution half year shall pay to the Fund in respect of such employee the contribution required to be paid by that employer under section 13 of the Ordinance.

Employment by 2 or more employers

PART IV

CONTRIBUTIONS MADE OR OMITTED TO BE MADE IN ERROR

34. When the Board is satisfied that any amount has been paid to the Fund in error, either wholly or partly in excess of the amount that was due to be paid, the Board may, subject to the provisions of the next succeeding regulations, refund the amount so paid in excess to the person by whom it was made:

Refunds and offsets

Provided that—

- (a) if the excess payment was in the opinion of the Board made by error

[Subsidiary]

occasioned by negligence on the part of the person by whom it was made, or if the refund of such excess payment is not claimed within 2 years of the date on which it was made, or if the member in respect of whom it was made has withdrawn it, such excess payment shall not be refunded but shall be deemed to have been properly made as an excess contribution under section 13 (4) for the employee in respect of whom it was made; and

- (b) if any amount is due to the Fund from the person to whom refund of the amount paid in excess would otherwise be made, the Board may retain the whole or any part of such payment and set it off against such amount as is due.

No refund without Board's consent

35. No refund shall be made and no amount shall be set off under regulation 34 except with the consent of the Board who may require the person by whom the excess payment was made to make a written application for refund and to furnish such information as the Board may require to determine the amount of the excess payment and the circumstances in which it occurred.

Late payments

36. When any contribution or the full amount of the contribution due by or in respect of any person has, by error, not been paid to the Fund during the month during which it should have been paid, the employer shall, as soon as such error comes to his notice, pay the amount due to the Fund accompanied by the appropriate forms.

PART V

DISPOSAL OF AMOUNTS UNCLAIMED OR OTHERWISE REMAINING IN THE FUND

Disposal of moneys when no application made under section 23

37. If within 6 months of the death of any member of the Fund any nominee has not made an application under section 23, the amount which would have been payable to such nominee shall be paid into court for disposal in accordance with the law for the time being in force.

Unclaimed Deposits Account

38. There shall be an Unclaimed Deposits Account into which shall be paid—
- (a) any contribution which cannot be allocated to the account of any member of the Fund because of lack of identification of the member concerned;
- (b) any amount authorised to be paid out of the Fund to any person, where such person has not obtained payment within 1 year after the date of authorisation;
- (c) any amount standing to the credit of a member of the Fund in respect of whom no contributions have been received for 10 years after he appears from the records to have attained the age of 55 years or 10 years from the date the last contribution was received, whichever date is the later, and in respect of which no notice of withdrawal has been received before the end of that period.

Payments out of Unclaimed Deposits Account

39. Any amount which has been transferred to the Unclaimed Deposits Account shall be paid to any person who can show that he is legally entitled thereto but no amount which has been so transferred shall be paid to any person unless application for its withdrawal has been made by that person within a period of 5 years from the time of its transfer to the Unclaimed Deposits Account.

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| | [Subsidiary] |
| 40. Except with the consent of the Board, no interest shall be added to any amount in respect of any period during which it is in the Unclaimed Deposits Account. | No interest to be added |
| 41. The moneys in the Unclaimed Deposits Account shall form part of the Fund and the interest from the investment thereof shall be placed to the general revenues of the Fund. | Unclaimed Deposits Account to form part of Fund |
| 42. Any sum which remains unclaimed after the expiration of 5 years after such sum has been transferred to the Unclaimed Deposits Account shall be carried to the General Reserve Account. | Transfer to General Reserve Account |

PART VI
NOMINATIONS

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|---|---|
| 43. Subject to the provisions of these Regulations, a member may nominate any person to receive any sum due to him on his death. Such nomination may be in favour of 1 or more persons who shall be clearly designated in the appropriate form and where there is more than 1 nominee the nominator may in such form direct that the nominees shall take the amount the subject of the nominations in specific shares of not less than one-eighth of the amount standing to the member's credit on his death: | Persons who may nominate and be nominated |
| Provided that in the absence of any such directions, or if such directions purport to dispose of more or less than the amount standing to the credit of the member at the date of his death, the Board shall pay the amount nominated to the nominated persons in equal shares. | |
| 44. The Board may in its discretion refuse to accept any nomination, where it has reason to believe that such nomination has been made under undue influence, or is in favour of the nominator's employer if such employer is not a relative, or if the effect of the nomination is to pledge as security the amount, or any part of the amount, standing to the member's credit, and such nomination shall be null and void. | Invalid nominations |
| 45. Every nomination shall be made in writing on the appropriate form and shall be signed by the nominator in the presence of a witness and the signature of the nominator shall be attested by such witness. | Nomination to be in writing |
| 46. Any person who attests the signature of a nominator to a nomination shall not be entitled to any benefit thereunder. | Attester not to benefit |
| 47. A nomination shall be of no effect unless the appropriate form duly completed is received during the lifetime of the nominator by the Manager of the Fund. | Nomination to be sent during lifetime of member |
| 48. (1) A nomination shall be revoked — | Revocation of nomination |
| (a) by the death of the nominee or where there is more than 1 nominee by the death of all the nominees in the lifetime of the nominator; | |
| (b) so far as relates to the interest thereunder of any nominee being one of 2 or more nominees by the death of that nominee in the lifetime of the nominator unless the interest of the nominee is disposed of by the nomination: | |

[Subsidiary]

Provided that in the event of any such revocation the amount which would have been payable to such deceased nominee shall be paid to the surviving nominees in the same proportion that the respective shares of the surviving nominees bear to each other;

(c) by a subsequent nomination duly made in accordance with the provisions of these Regulations by the same nominator;

(d) by the marriage of the nominator as provided in section 25.

(2) A nomination shall not be revoked by any will or by any other act, event, or means whatsoever.

Death of nominee

49. Where a nominee dies after the death of the nominator, but before any sum has been paid to him as a nominee, these Regulations shall apply to the nominee and the sum payable to him as if at the date of his death the deceased nominee were a member of the Fund and the sum due to him in that respect.

PART VII

WITHDRAWALS

Application

50. (1) An application for the withdrawal of any amount standing to a member's credit in the Fund shall subject to the discretion of the Manager —

- (a) be made in writing on an appropriate form obtainable from the Manager,
- (b) include the particulars required by such form to be supplied,
- (c) comply with any formalities or directions specified in such form, and
- (d) be lodged after due completion, with the Manager at the office of the Fund.

(2) Every applicant shall —

- (a) produce to the Manager on demand the membership certificate of the member in respect of whom the claim is made or such other evidence of identity and of entitlement as the Manager in his discretion deems necessary to substantiate the claim for benefit, and
- (b) attend at such office or place for such purpose as the Manager may for reasonable cause require.

Age given on registration form to be binding

51. Where the application is made on the ground that the member has attained the age of 50 years, or more, the date of birth entered on the member's registration form shall be deemed to be binding upon the member but the Manager may, if he has reason to believe that such date was not correctly stated, require to be furnished with further evidence of age to his satisfaction.

Evidence of death

52. Where the application is made on the ground that the member had died, the applicant shall supply proof of the death of the member. Such proof in the absence of a grant of probate or letters of administration shall be a copy of the death certificate:

Provided that the Board may accept as proof of death such other documents as it may in its absolute discretion think fit.

Member not heard of for 7 years

53. The Board may accept as conclusive proof of the death of the member a statutory declaration made before a magistrate or a justice of the peace that such member has not been heard of for a period of 7 years or more by persons who, if the member had been alive, would be likely to have heard of him. A receipt for

[Subsidiary]

any payment that may be made under the provisions of these Regulations in reliance on such statement or declaration as aforesaid shall be a valid discharge to the Board for the sum paid notwithstanding that the member may in fact be alive at the time of such payment.

54. Where the application is made on the ground that the member is physically or mentally incapacitated from ever engaging in any further employment, the member shall forward with the application referred to in regulation 50 a certificate in the appropriate form signed by a medical officer in support of the facts therein stated for the purposes of the Ordinance.

Evidence of incapacity

55. If the Board is not satisfied by any medical evidence produced by the member the Manager may appoint 1 or more medical officers as a medical board to examine the applicant and to make a report and may require such applicant to appear before such medical board and be examined at such time or place as the medical board may appoint.

Medical boards

56. Where the application is made on the grounds that the member is about to leave or has left the Gilbert Islands with no intention of returning thereto the member shall supply such evidence in support of his application as the Manager may require.

Evidence of leaving the Gilbert Islands

57. Where the application is made on the ground that the member, being a woman, has married, the member shall forward with the application referred to in regulation 50 a copy of the relevant certificate of marriage or certified copy of the relevant entry in a district marriage register maintained in accordance with the Marriage Ordinance:

Evidence of marriage

Cap. 54

Provided that the Board may accept as proof of marriage such other evidence as it may in its absolute discretion think fit.

58. If, having applied for withdrawal, a member dies before having received payment of any amount due to him in respect of such application, such application shall be deemed to be null and void.

Death before payment

PART VIII

SPECIAL DEATH BENEFIT

59. For the purposes of section 27 of the Ordinance the amount to be added to a deceased qualified member's credit shall be the maximum sum declared by the Board in accordance with section 9 of the Ordinance provided that at the date of his death the following conditions are satisfied —

Conditions

- (a) the amount deducted from the member's credit in accordance with section 17 (4) of the Ordinance at the date of the last such deduction shall have been not less than \$5 or, where no amount has been deducted between the time of his joining the Fund and the date of his death the amount to be deducted at the commencement of the next financial year would have been \$5 had contributions continued to be paid at the same rate as they were paid before the death; and
- (b) in the case of a member who is not a voluntary member, contributions to the Fund shall have been paid in respect of him in each of the contribution half years in the test period; or

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- (c) in the case of a voluntary member, a sum of not less than \$25 shall have been paid by or in respect of him in each of the contribution half years in the test period.

Rate of benefit

60. In the case of a deceased qualified member who did not at the date of his death satisfy the conditions set out in regulation 59, the amount to be added to his credit at the date of his death shall be calculated in the following manner—

- (a) if the amount deducted from the deceased member's account in accordance with section 17 (4) of the Ordinance at the date of the last such deduction shall have been less than \$5 the maximum sum for the purpose of the succeeding paragraphs of this regulation shall be deemed to be such proportion of the maximum sum as the amount deducted as aforesaid shall bear to \$5; and
- (b) in the case of a member who is not a voluntary member, such maximum sum shall be abated by \$100 in respect of each contribution half year in the test period in which no contributions were paid in respect of him at the date of his death; or
- (c) in the case of a voluntary member such maximum sum shall be abated by \$100 in respect of each contribution half year in the test period in which less than \$25 had been paid by or in respect of him at the date of his death:

Provided that, if during the test period, both paragraph (b) and paragraph (c) applied at different times to the deceased member, paragraph (b) shall apply to any contribution half year in which he was not a voluntary member and paragraph (c) to any contribution half year in which he was a voluntary member for the whole of that half year.

PART IX

PAYMENTS OUT OF THE FUND

Form of payment

61. Where a withdrawal from the Fund has been authorised in favour of any person, payment may be made in cash or by cheque or by such other means as the Manager may, in his discretion, determine.

Exercise by appointees of powers of persons incapable

63. (1) Where the Manager is satisfied that a person entitled to claim is incapable of acting for himself, the Manager may appoint in writing some other person, whom the Manager shall judge proper to receive the sum in the interests of the person to whom it is due, to act on the entitled person's behalf in relation to the Ordinance.

(2) A receipt given by a person appointed under paragraph (1) hereof shall be a good and sufficient discharge to the Fund for any sum paid to such person.

Posting to be equivalent to delivery

64. The posting of a letter by registered post containing a cheque, or the issue of a telegraphic money order, in pursuance of these Regulations addressed to any person at the address furnished on the application for withdrawal by that person shall, as regards the liability of the Fund, be equivalent to the delivery of the sum specified in the cheque or telegraphic money order to the person to whom the letter or telegraphic money order was addressed:

Provided that where the person satisfied the Manager that the cheque has been lost or destroyed further payment may be made to the person on receipt by the Manager of a satisfactory indemnity from that person.

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65. The Manager may in his discretion direct that a payment in respect of any payment due to a person undergoing a sentence of imprisonment or otherwise held in legal custody shall be postponed until the release of that person or shall be made to the Superintendent of Prisons to be applied on behalf of that person.

Prisoners

PART X

MEMBERS' STATEMENTS OF ACCOUNT

66. As soon as possible after the end of each financial year the Manager shall cause to be despatched to every voluntary member and to every employer who has completed a half yearly schedule of contributions for the last half year of that financial year statements of account in the appropriate form, in the case of an employer for each of the employees listed on such schedule as being in his employment in the month of November of such financial year.

Statements of account to be sent to employers and voluntary members

67. An employer receiving statements of account under regulation 66 shall within 14 days of their receipt either deliver them to the employees to whom they are addressed or if any of these employees are no longer in his employment return the undeliverable statements to the Manager.

Employer to deliver statements to employees

68. If a member of the Fund who has not received his statement of account under regulation 67 shall apply to the Manager for a statement of account, the Manager shall forward to him within 1 month of such application a statement of account up to the end of the financial year preceding that in which the application is made:

Members who do not receive accounts

Provided that if the application is made between the end of the financial year and the date when statements of account are despatched to employers in accordance with the provisions of regulation 66 the Manager shall send the statement of account to the applicant as soon as possible thereafter.

PART XI

OFFENCES AND PENALTIES

69. (1) An employer who—
- (a) fails to obtain, complete or forward any registration documents in the time required under these Regulations;
 - (b) fails to complete or return any half yearly schedule of contributions or monthly contribution remittance form in the time required under these Regulations;
 - (c) fails or refuses to make available the duplicate copy of any half yearly schedule of contributions or monthly contribution remittance form in accordance with these Regulations;
 - (d) fails to deliver to any of his employees any document in the time he is required so to deliver under these Regulations;
 - (e) fails by the prescribed date to complete and return any interim statement as required by regulation 26;
- shall be liable on conviction to a fine of \$100 and to imprisonment for 3 months.

Offences by employers

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(2) Where any person has been convicted of an offence under subparagraph (a) or subparagraph (b) of paragraph (1) of failing to forward or return any document, schedule or form, the court by which he is so convicted may order the production of such document, schedule or form to the Manager within such time as the court may consider reasonable in the circumstances and may further order that in default of such production such person shall be liable to a penalty of \$10 for each and every day during which such default continues.

Offences by employees

70. Any employee who—

- (a) fails to sign a registration form as required by regulation 8;
- (b) fails to provide to his employer the information required by regulation 9; or
- (c) fails to complete and forward a notice of nomination as required by regulation 11;

shall be liable on conviction to a fine of \$40, and to imprisonment for 1 month.

Appropriate form to remain property of Board

71. Every appropriate form issued to an employer or employee under the provisions of these Regulations shall remain at all times the property of the Board and any person in possession of any such form shall deliver it up on demand to the Manager of the Fund or any inspector appointed under the provisions of section 5 (4) and any person in possession of an appropriate form who refuses or fails so to deliver it up shall be liable on conviction to a fine of \$100 and to imprisonment for 3 months.

PART XII

MISCELLANEOUS

Duplicate certificates

72. (1) If the certificate of membership of any employee is lost or destroyed, the employee concerned may apply to the Manager for the issue to him of a duplicate certificate in place thereof and the Manager may if he sees fit, issue such duplicate after obtaining such information as may be required and may make a charge of 50 cents therefor. Every duplicate certificate shall before issue have endorsed upon it the word "duplicate" and the date of issue.

(2) If an employee registers 2 or more times the Manager shall cancel whichever of the registrations appear to him to be inappropriate and shall make a charge of 50 cents against the person concerned for each occasion on which he registers except the following occasions—

- (a) when a person first becomes liable to register as a member;
- (b) when a person whose membership has ceased under the Ordinance again becomes liable to register as a member.

(3) The Manager may at his discretion dispense with a charge under this regulation in any particular case.